A GUIDE TO

THE HUMAN RIGHTS ACT

BILL NO. 99
TABLED IN THE YUKON LEGISLATURE
DECEMBER 1, 1986

Yukon
Government

87-00579/

HOW TO USE THIS GUIDE

Bill No. 99, the Human Rights Act, was tabled in the Yukon Legislature on Monday, December 1, 1986. This booklet is a guide to the proposed Human Rights Act.

On the right hand pages of the booklet is the actual text of the proposed Act. It is divided into parts and sections, each with headings. On the left hand pages are the Explanatory Notes. These notes are intended to explain some of the terms used in the Bill, and the meanings of the sections. Not all of the sections are defined in detail.

The easiest way to understand the Act is to read a section of the Act then read the corresponding section in the Explanatory Notes.

It is the Government's hope that the Bill is clear and understandable. If you have any questions about the meaning of any sections, call the Human Rights Information Office. In Whitehorse call 667-3091. Outside of Whitehorse call, toll free, 667-5955, extension 3091.

EXPLANATORY NOTES

Preamble

The "preamble" is the introduction to the Bill. It gives a little of the history of why Canada as a Country (and our provinces and territories) is committed to human rights.

The formation of the United Nations in 1945 was the beginning of the legal recognition of fundamental human rights. After two terrible world wars, many countries joined together to establish the United Nations as a way of promoting peace and fundamental human rights. In 1948, the United Nations presented to its' member countries, the Universal Declaration of Human Rights. Every country, including Canada, voted to adopt this declaration as a standard of human rights.

This was the first of many international undertakings which Canada has signed. Since then Canada has signed other agreements including those to eliminate racial discrimination and discrimination against women. This means that all Canadian governments (federal, provincial and territorial) have agreed to promote effective human rights laws and programs.

In the fourth paragraph of the preamble is an acknowledgement of the unique rights of aboriginal peoples similar to the Canadian Constitution. Special provisions means, for example, the right of aboriginal peoples to negotiate a land claims settlement.

Objects

1. (1) The objects of the Act are the basic reasons for its existence. This section says that the Act is designed to promote equality and discourage discrimination. Inherent dignity and inalienable rights refer to the rights that every member of the human family is born with. These include the right to live, work and develop to our own potential consistent with our ability as individuals and our responsibilities as members of society.

HUMAN RIGHTS ACT

Preamble

Recognizing that respect for human rights is a fundamental part of Canada's heritage,

That Canada is a party to the United Nations' Universal Declaration of Human Rights and other international undertakings having as their object the improvement of human rights in Canada and other nations of the world,

That the Yukon Government has a responsibility to encourage an understanding and recognition of human rights that is consistent with Canada's international undertakings and with the initiatives taken by Canada and the provinces, and

That it is just and consistent with Canada's international undertakings to recognize and make special provision for the unique needs and cultural heritage of the aboriginal peoples of the Yukon,

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

Objects

1. (1) The objects of this Act are
   (a) to further in the Yukon the public policy that every individual is free and equal in dignity and rights,
   (b) to discourage and eliminate discrimination,
   (c) to promote recognition of the inherent dignity and worth and of the equal and inalienable rights of all members of the

1. (2) This section of the objects recognizes that this Act does not contradict the rights of aboriginal peoples as guaranteed in the Indian Act and the Constitution of Canada. Nor will this Act interfere with land claims negotiations.

2. **Multicultural Heritage**

The Yukon has many cultures. This Human Rights Act does not try to encourage everyone to act or be the same, but rather to recognize and respect our many differences.

PART 1
BILL OF RIGHTS

The three sections in the Bill of Rights refer to a recognition of the fundamental freedoms allowed to every Yukoner. They mean, quite simply, that Yukoners have the right to believe what we wish, to speak, write, and otherwise express ourselves according to our beliefs, and to gather together peacefully.

But none of these freedoms are unlimited. In accordance with the law means that we have these fundamental freedoms up until the time that we break the law or interfere with others' freedoms. For example, no one could say that their religious or political belief was a justified reason for terrorism or violence. Freedom of expression is limited by laws of libel and slander (among others). And the right to demonstrate peacefully does not give anyone the right to trespass on someone else's property or block traffic on the highway. These restrictions are there so that one person's freedom does not cancel out another's.

The Bill of Rights part is here to acknowledge that people in the Yukon are free to disagree, make our feelings known, and democratically and peacefully change our society as we wish.

human family, these being principles underlying the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights and other solemn undertakings, international and national, which Canada honours.

(2) This Act does not affect rights pertaining to aboriginal peoples established by the Constitution of Canada or by a land claims agreement.

Multi-cultural heritage

2. This Act shall be interpreted in a manner consistent with the preservation and enhancement of the multi-cultural heritage of the residents of the Yukon.

PART 1

BILL OF RIGHTS

Right to freedom of religion and of conscience

3. Every individual and every group shall, in accordance with the law, enjoy the right to freedom of religion, conscience, opinion, and belief.

Right to freedom of expression

4. Every individual and every group shall, in accordance with the law, enjoy the right to freedom of expression, including freedom of the press and other media of communication.

Right to freedom of assembly and of association

5. Every individual and every group shall, in accordance with the law, enjoy the right to peaceable assembly with others and the right to form with others associations of any character.

PART 2
DISCRIMINATORY PRACTICES

6. **Prohibited Grounds**

The term discrimination, as used in this Act, means unfair treatment of someone because of one of the grounds listed from (a) to (k). These are called the prohibited grounds. If someone is treated differently because of something not listed in the prohibited grounds (for example, because of their job training, or because they are a smoker) then it is not a concern of this Act. Only unfair treatment because of the grounds listed (race, religion, etc.) is considered a human rights complaint.

A few clarifying points:

(c) linguistic background means someone's original language
(e) age, after a person's nineteenth birthday clearly allows age restrictions on driving, drinking, voting, etc.
(g) sexual orientation is defined in Section 34 of this Act, to mean "heterosexual, homosexual, and bisexual" and refers only to consenting adults and to actions that are within the law.
(h) physical or mental disability is defined in Section 34.
(i) criminal charges and criminal record are restricted by the nature of the employment. See Section 9 for further details.
(j) political activity would include speaking, writing or working on behalf of a candidate, party or a political issue.
(l) This section is there to protect people from discrimination because someone thought they were identified by a prohibited ground.

7. **Duty to provide for special needs**

Some differential treatment is necessary in order to achieve equal opportunity. For example, this may mean that an employee may need a particular religious day off or that some accommodation be made for a disabled person. However, this section also clearly states that providing for these differences is not necessary if it would cause undue hardship

PART 2

DISCRIMINATORY PRACTICES

Prohibited grounds

6. It is discrimination to treat any individual or group unfavourably on any of the following grounds:

(a) ancestry, including colour and race,

(b) national origin,

(c) ethnic or linguistic background or origin,

(d) religion or creed, or religious belief, religious association, or religious activity,

(e) age, after a person's nineteenth birthday,

(f) sex, including pregnancy, and pregnancy related conditions,

(g) sexual orientation

(h) physical or mental disability,

(i) criminal charges or criminal record,

(j) political belief, political association or political activity,

(k) marital or family status,

(l) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (k).

Duty to provide for special needs

7. (1) Every person has a responsibility to make reasonable provisions in connection with employment, accommodations, and services for the special needs of others where those special needs arise from any of the characteristics listed in section 6, but this duty does not exist where making the provisions would result in undue hardship.

Undue Hardship is used to balance the costs of the provision for special needs and the ability of the employer or landlord to make accommodation. For example, a large department store with fifty employees may be able to accommodate a religious holiday of a worker, by switching some shifts around. However, it may be unreasonable to expect a two-person operation to accommodate this need.

Or, a Commission or Board of Adjudication may consider it reasonable for a ground floor restaurant to put in a wheelchair ramp if it did not mean major renovations. However, they may consider it unreasonable to expect a second floor restaurant to put in an elevator.

8. **Prohibited discrimination**

While reading this section it is important to remember that the unfair treatment must be based on one of the prohibited grounds listed in Section 6, for it to be considered discrimination. This section lists the areas of public life that are protected from discrimination in the Bill. Generally, these are employment, accommodation, and services which are the areas considered necessary to live as a member of society. These areas do not pertain to personal or private matters, such as who our friends are or what our beliefs are, since these are personal choices and not public undertakings.

9. **Reasonable cause**

(a) An example of a reasonable requirement or qualification for employment as a truck driver would be to have the skills to drive a truck, and include the ability to see and read a map.

(b) Criminal record or criminal charges relevant to the employment means, for example, that someone charged with impaired driving may be denied a job as a cab driver because the charge is related to driving. However the same person could not be denied the job of a typist.

(c) This clause specifically permits separate washrooms and change rooms for men and women.

(2) For the purposes of subsection (1) "undue hardship" shall be determined by balancing the advantages and disadvantages of the provisions by reference to factors such as

(i) safety,

(ii) disruption to the public,

(iii) effect on contractual obligations,

(iv) financial cost,

(v) business efficiency.

Prohibited discrimination

8. No person shall discriminate

(a) when offering or providing services, goods, or facilities to the public,

(b) in connection with any aspect of employment or application for employment,

(c) in connection with any aspect of membership in or representation by any trade union, trade association, occupational association, or professional association,

(d) in connection with any aspect of the occupancy, possession, lease, or sale of property offered to the public,

(e) in the negotiation or performance of any contract that is offered to or for which offers are invited from the public.

Reasonable cause

9. It is not discrimination if selection is based on

(a) reasonable requirements or qualifications for the employment,

(b) on a criminal record or criminal charges relevant to the employment, or

(c) sex, so as to respect the privacy of the people to whom accommodations or a service or facility is offered.

10. **Exemptions**

(1) Social organizations include groups that are sometimes called "fraternal" groups (Lions, Elks, etc) as well as groups that, for example, are primarily concerned with the needs of women, or native peoples. This section means that these groups may give preference to their own group, but cannot discriminate on any of the other grounds. For example, a non-profit women's group may give preference to hiring women, but cannot discriminate on the basis of any woman's disability or political belief. A church could insist that an employee handling religious matters be a practising member of their own faith, but could not refuse someone the job because of their age or ancestry.

(2) This will allow family businesses for example, to continue to give preference in employment to family members.

(3) This clause allows individuals to use any criteria they deem important when choosing boarders, or employees that work in the private home.

11. **Systemic discrimination**

Systemic discrimination is a term used to identify a situation where a system is discriminating. An example of this is where many police forces used to have a hiring practice which had height and weight restrictions. This system was not meant to discriminate but to determine job qualifications. However, the effect of the practice was that most women and many members of minority groups were not eligible to apply. After careful consideration, the height and weight restrictions were dropped as qualifications and some were replaced by strength and skill tests. This eliminated the discrimination but maintained the necessary job qualifications.

12. **Special programs and affirmative action**

An example of special program would be senior citizen's discount rates. An example of affirmative action programs is an employer voluntarily undertaking a program to encourage women into non-traditional work. These programs are not considered discrimination since they are attempting to remedy the disadvantages that many groups have experienced because of past discrimination.

Exemptions

10. (1) It is not discrimination for a religious, charitable, educational, social, cultural, or athletic organization to give preference to its members or to people the organization exists to serve.

(2) It is not discrimination for individuals to give preference to members of their family.

(3) Section 8 does not apply to

(a) the employment of a person to provide services in a private home,

(b) the choice by an occupant of a private home of a boarder or tenant to occupy part of the home.

Systemic discrimination

11. Any conduct that results in discrimination is discrimination.

Special programs and affirmative action

12. (1) Special programs and affirmative action programs are not discrimination.

(2) Special programs are programs designed to prevent disadvantages that are likely to be suffered by any group identified by reference to a prohibited ground of discrimination.

(3) Affirmative action programs are programs designed to reduce disadvantages resulting from discrimination suffered by a group identified by reference to a prohibited ground of discrimination.

13. **Harassment**

Harassment is a concern of this Act only in relation to the general areas of employment, accommodation and services as laid out in Section 8. This means that if someone harasses you on the street, it is not covered under this Act, (but may be by other laws like assault, etc.) However, if a co-worker or employer harasses you on your job because of your age, sex or any of the prohibited grounds, so that it interferes with your work it is covered by this law.

Harassment can take many forms. Vexations conduct can refer to constant racial or sexual slurs or insults, threats of physical abuse, or unwanted sexual advances.

14. **Equal pay for work of equal value**

(1) This section only applies to the public sector. This means only the territory and local governments, and any government agencies are affected by this section. Also note that this section comes into force for the territorial government immediately, and all others on December 10, 1987. (see Section 38)

(2) It is important to emphasize that this section is referring to pay differences that are based on a prohibited ground, such as age, sex, race and so on. Pay differences which are based on other factors (such as seniority, performance rating, productivity, training, etc.) are reasonable and acceptable.

(3) Skill refers to any skills gained through training, education or experience. Effort means the effort normally required to do the job. Responsibility means responsibility for equipment, finances, or the supervision of other employees. And working conditions refers to noise, cold, heat, isolation or potential health and safety hazards.

Harassment

13. (1) No person shall

(a) harass any individual or group by reference to a prohibited ground of discrimination,

(b) retaliate or threaten to retaliate against an individual who objects to the harassment.

(2) In subsection (1), "harass" means to engage in a course of vexatious conduct or to make a demand or a sexual solicitation or advance that one knows or ought reasonably to know is unwelcome.

Equal pay for work of equal value

14. (1) This section applies only to the Government of the Yukon and municipalities and their corporations, boards, and commissions.

(2) It is discrimination for an employer to establish or maintain a difference in wages between employees who are performing work of equal value, if the difference is based on any of the prohibited grounds of discrimination.

(3) In assessing the value of the work performed the criterion to be applied is the composite of the skill, effort, and responsibility required and the working conditions.

(4) For the purposes of this section, "wages" means any form of payment for work performed by an individual, and includes salaries, commissions, vacation pay, dismissal wages, bonuses, value for board, rent, housing, lodging, payments in kind, employer contributions to pension funds or plans, employer contributions to long-term disability plans, employer contributions to any forms of health insurance plans, and any other advantage received directly or indirectly from the individual's employer.

(5) An employer shall not reduce wages in order to comply with this section.

PART 3
YUKON HUMAN RIGHTS COMMISSION

15. Human Rights Commission

A Commission that is accountable to the Legislature means that it is not responsible only to the Minister of Justice, or to the government in power, but to every elected MLA in the Yukon Legislature. This allows for more independence from government and less possibility of interference from the government of the day.

The Commission's duties are generally to promote the principles of equality and to try and settle complaints voluntarily through conciliation or mediation. When the Commission is not successful at negotiating a settlement, it will recommend that the complaint be heard by a Board of Adjudication.

At an adjudication hearing, the Commission will represent whatever position it believes is in the public interest.

16. Appointment of Commission

Commissioner in Executive Council means the Cabinet. Actual appointments of Commissioners may be made by the Cabinet of the day between sittings of the Legislature, but the appointments must be approved by the whole Legislature as soon as possible for the appointments to be binding.

Human Rights Commissioners will be volunteers, representative of the population, and will receive payment for the meetings they attend.

PART 3

YUKON HUMAN RIGHTS COMMISSION

Human Rights Commission

15. (1) There shall be a Yukon Human Rights Commission accountable to the Legislature and the commission shall

(a) promote the principle that every individual is free and equal in dignity and rights,

(b) promote the principle that cultural diversity is a fundamental human value and a basic human right,

(c) promote education and research designed to eliminate discrimination,

(d) promote a settlement of complaints in accordance with the objects of this Act by agreement of all parties,

(e) cause complaints which are not settled by agreement to be adjudicated, and at the adjudication adopt the position which in the opinion of the commission best promotes the objects of this Act.

(2) The commission shall conduct education and research on the principle of equal pay for work of equal value in the private sector.

Appointment of commission

16. (1) The commission shall consist of a minimum of three and a maximum of five members who shall be appointed for a term of three years by the Commissioner in Executive Council but whose appointment will not continue beyond the next sitting of the Legislature unless confirmed by the Legislature.

(2) A member of the commission may only be removed from office by resolution of the Legislature.

17. **Annual report of commission**

Annual reports of Human Rights Commissions usually involve the number of inquiries and complaints, the nature of the complaints and how they were settled. It should include recommendations from the Commission, and a summary of research and educational activities.

PART 4
COMPLAINTS

19. **Complaints**

The person who makes a complaint is called the complainant, and the person against who the complaint is made is called the respondent.

Three types of complaints may not be investigated by the Commission:

(a) A complaint may not be a Human Rights complaint, under this Act (for example, a complaint which should be handled through Employment Standards), or a complaint may be covered by the federal Human Rights Act and therefore beyond the jurisdiction of the Commission.

(b) A complaint may be considered frivolous or vexatious if it is trivial or being used primarily to slander the respondent.

(c) A complaint may be stopped or withdrawn, at any time, if the Commission is asked to do this by the alleged victim.

Annual report of commission

17. In each fiscal year the commission shall deliver to the Speaker of the Legislature a report about the administration of this Act.

Director of Human Rights

18. There shall be a Director of Human Rights responsible to the commission for

(a) ensuring that complaints are dealt with in accordance with this Act,

(b) carrying out, in accordance with the commission's policies and directives, the administration of this Act.

PART 4

COMPLAINTS

Complaints

19. (1) Any person believing that there has been a contravention of this Act may complain to the commission who shall investigate the complaint unless

(a) the complaint is beyond the jurisdiction of the commission

(b) the complaint is frivolous or vexatious, or

(c) the victim of the contravention asks that the investigation be stopped.

(2) A complaint must be made within one year of the alleged contravention.

20. **Disposition of complaints by commission**

The Commission may chose to dismiss the complaint after the investigation if there was not enough evidence to prove that discrimination actually took place. If, however, the investigation does produce evidence of discrimination, then the commission will attempt to negotiate a settlement that is agreeable to both the complainant and the respondent. If this is not successful the complaint will be referred to adjudication.

21. **Panel of adjudicators**

These boards have different names across Canada (Adjudication, Tribunal, Inquiry) but they generally serve the same purpose. They are independent legal bodies, separate from the commission and have some of the powers and procedures of the courts. A panel of adjudicators means that there will be a list of names, approved by the whole Legislative assembly, of individuals appointed to hear cases when and if the need arises. One of these people will be named the Chief Adjudicator and will be the person who decides which members of the panel should be drawn upon to hear a case. A Board of Adjudication may in fact be only one person, or could be all three.

It is important to note that judging from the experiences of these Boards across Canada, very few complaints actually go to this stage. Most are successfully negotiated by the Commission.

22. **Fundamental justice**

The term principles of fundamental justice refers to fairness in procedures. This includes the concept of impartiality of the people hearing the case, and requires, for example, knowing the basic facts of a complaint against you and being given the opportunity to respond.

The powers of a board under the Public Inquiries Act are:

a) to enforce the attendance of persons as witnesses
b) to compel them to give evidence, and
c) to compel them to produce documents and things.

Disposition of complaints by commission

20. After investigation, the commission shall

(a) dismiss the complaint, or

(b) try to settle the complaint on terms agreed to by the parties, or

(c) ask a board of adjudication to decide the complaint.

Panel of adjudicators

21. (1) There shall be a panel of adjudicators to be called upon as required to adjudicate complaints.

(2) The panel of adjudicators shall consist of not less than three members, one of whom shall be designated Chief Adjudicator, who shall be appointed for a term of three years by the Commissioner in Executive Council but whose appointment will not continue beyond the end of the next sitting of the Legislature unless confirmed by the Legislature.

(3) A member of the panel may only be removed from the panel by resolution of the Legislature.

(4) When the commission asks that a complaint be adjudicated, the Chief Adjudicator shall establish a board of adjudication and determine its membership.

Fundamental justice

22. The board of adjudication shall conduct its hearings in accordance with the principles of fundamental justice and may exercise all the powers of a board appointed under the Public Inquiries Act.

23. **Where complaint established**

(1) The balance of probabilities is "the ordinary civil standard of proof". It means that the standard of proof used in Human Rights Cases involves weighing and balancing the evidence to decide which position carries the most weight. This is unlike the standard of proof in a criminal case where, because of the severity of a crime, the evidence must prove the charge is "beyond a reasonable doubt".

Exemplary damages are used in law as a way of "making an example" of someone who discriminated with full knowledge and intent and where the motivation was malicious.

(2) This section protects an "innocent party" to the discrimination from suffering consequences of a complaint. For example, let's say someone was fired from their job because of their political belief and you were hired in their place. If the first person was successful in a Human Rights complaint against your employer, you could not be fired and the original employee rehired, as a remedy. Another solution (for example, another job) must be found.

24. **Costs of Adjudication**

This section allows for damages, and damages for injury to reputation be paid to a respondent, if the Board of Adjudication rules that the Commission has acted improperly. It is designed to make the Commission accountable for it's actions.

25. **Enforcement of adjudication by court**

Since a board of adjudication is not a court of law, this clause is necessary to ensure that the orders of the board will have the same effect as a court order.

Where complaint established

23. (1) If the complaint is proven on the balance of probabilities the board may order the party who discriminated to

(a) stop the discrimination,

(b) rectify any condition that causes the discrimination,

(c) pay damages for any financial loss suffered as a result of the discrimination,

(d) pay damages for injury to dignity, feelings, or self-respect,

(e) pay exemplary damages if the contravention was done maliciously,

(f) pay costs.

(2) No order made under this section shall contain a term

(a) requiring an individual to be removed from employment if the individual accepted the position in good faith, or

(b) requiring an occupant of a dwelling to leave if the occupant obtained possession of the dwelling in good faith.

Costs of adjudication

24. If the board of adjudication concludes that the complaint was frivolous or vexatious or that the proceedings have been frivolously or vexatiously prolonged the board may order the commission to pay to the respondent

(a) part or all of the respondent's costs of defending against the complaint, and

(b) damages for injury to the respondent's reputation.

Enforcement of adjudication orders by court

25. An order of the board of adjudication may be filed in the Supreme Court and it shall then be enforceable as an order of the Supreme Court.

2.. **Appeals**

Anyone has the right to appeal a decision of the board of adjudication to the Supreme Court, using the usual procedures for an appeal process. This means that the Appeal Court would be asked to make a second ruling after the Adjudication Board's decision.

PART 5
OFFENCES

28. **Retaliation**

This would mean that an employer, for example, could not demand that an employee act in a discriminatory way. Nor could an employer threaten an employee with dismissal if the employee refuses to be discriminatory.

It also means that an employer could not threaten to fire an employee simply because the employee has made a complaint to the Human Rights Commission, or because the employee has given evidence or witness in an investigation or a hearing.

Appeals

26. (1) Any party to a proceeding before a board of adjudication may appeal final decisions of the board to the Supreme Court by filing a notice of appeal with the court within thirty days after the order of the board of adjudication is pronounced.

(2) The procedure for the appeal shall be the same as for an appeal in the Court of Appeal.

(3) An appeal under this section may be made on questions of law and the court may affirm or set aside the order of the board and direct the board to conduct a new hearing.

(4) The only proceeding that may be taken to set aside or vary decisions of the board is the right of appeal given by this Act.

PART 5

OFFENCES

Obstruction

27. Every person who willfully obstructs or interferes with any person acting under the authority of this Act commits an offence.

Retaliation

28. It is an offence for a person to retaliate or threaten to retaliate against any other person on the ground that the other person has done or proposes to do anything this Act permits or obliges them to do.

29. **Penalties**

A summary conviction, in Canadian law, is considered a conviction of a less serious nature and carrying a lesser penalty than other convictions. Summary convictions are tried by a magistrate and the proceedings are usually quicker than trials by judge and jury.

PART 6
MISCELLANEOUS

30. **Interim injunction**

A temporary injunction prevents someone from continuing to act in a certain way until a case has been heard. An injunction must be granted by a supreme court judge.

31. **Disclosure**

This section means that if a respondent or witness refuses to provide evidence on a voluntary basis, a judge of the supreme court can require that it be provided. The judge must be convinced that the document that is being withheld is relevant to the case. This is the only way that the Commission can obtain documents that are not voluntarily available.

32. **Acts of employees**

This section indicates that employers are responsible for discriminatory acts of their employees. Where employees have acted in a discriminatory way contrary to instructions from their employers, or the employer has taken steps to rectify the discrimination, the employee may be found to be solely responsible.

Penalties

29. A person who commits an offence under section 27 or 28 is liable on summary conviction to a fine of up to $2,000.

PART 6
MISCELLANEOUS

Interim injunction

30. If a complaint has been made to the commission or a prosecution has been commenced, a judge of the Supreme Court may grant a temporary injunction restraining any conduct alleged to be in contravention of this Act, or requiring the respondent or accused to comply with this Act until the complaint proceedings or prosecution have been completed.

Disclosure

31. If a judge of the Supreme Court is satisfied that a request for disclosure of a document has been refused and that there are reasonable grounds to believe that the document is relevant to the investigation of a complaint, the judge may order the person who has the document to produce it for inspection and copying by the commission's investigator.

Acts of employees

32. Employers are responsible for the discriminatory conduct of their employees unless it is established that the employer did not consent to the conduct and took care to prevent the conduct or, after learning of the conduct, tried to rectify the situation.

33. **Regulations**

Regulations are the details of how particular laws will work. For example, regulations may include the format that a complaint form will take, and the hiring procedures for staff.

Regulations

33. After consultation with the commission, the Commissioner in Executive Council may make regulations

(a) establishing the procedures of the commission and boards of adjudication,

(b) regarding the hiring of people by the commission and the terms and conditions of their employment or service,

(c) prescribing remuneration and expenses that may be paid.

Interpretation

34. In this Act

"physical disability" means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and includes epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, and physical reliance on a seeing eye dog or on a wheelchair or other remedial appliance or device;

"mental disability" means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or learning disability;

"person" includes a partnership, an unincorporated organization or association, and a trade union;

"sexual orientation" means heterosexual, homosexual, and bi-sexual and refers only to consenting adults acting within the law.

35. **Act binds Government of the Yukon Territory**

This section is necessary in order to ensure that the territorial government is also bound by this Act, along with citizens. This includes the territorial government's actions as an employer and a provider of services.

36. **Paramountcy**

No other Yukon law can discriminate on the basis of any of the prohibited grounds, unless there is a specific reason for this which is described in the other law.

37. **Fair Practices Act**

The Fair Practices Act, which has functioned as the Yukon's anti-discrimination law since 1963, will no longer be in effect the day that this Act takes effect. It will, however remain effective up until that day.

38. **Coming into force**

(1) July 1, 1987, is the latest day that this Act could come into effect. The government, however could choose to fix an earlier date.

(2) Section 14 is the equal pay for work of equal value section. This section will not come into force for municipalities, etc. until December 10, 1987.

December 10th is International Human Rights Day.

Act binds Government of the Yukon Territory

35. This Act is binding upon the Government of the Yukon Territory and its corporations, boards, and commissions.

Paramountcy

36. This Act supercedes every other Act, whether enacted before or after this Act, unless it is expressly declared by the other Act that it shall supercede this Act.

Fair Practices Act

37. The Fair Practices Act is repealed.

Coming into force

38. (1) Subject to subsection (2), this Act comes into force on July 1, 1987 or an earlier date to be fixed by the Commissioner in Executive Council.

(2) In respect of municipalities and their corporations, boards, and commissions, section 14 comes into force on December 10, 1987.